

LOUISIANA RULES ON LIMITED SCOPE REPRESENTATION

Louisiana Rule of Professional Conduct 1.2(c) and Louisiana District Court Rules 9.12 and 9.13 apply to limited scope representation and limited appearance in Louisiana District Courts. An explanation of Rule of Professional Conduct 1.2(c) is included below. Louisiana District Court Rules 9.12 and 9.13 follow. Section VI. also includes pertinent forms related to Rules 9.12 and 9.13.

Louisiana Rule of Professional Conduct 1.2

Limited scope representation is governed by Rule of Professional Conduct 1.2(c) which provides, in pertinent part, that: A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Essentially, limited scope representation is an agreement between a lawyer and a client where the lawyer provides some but not all the services traditionally associated with full-service representation. Additionally, it is a legal framework in which a lawyer may expand access to legal services by providing limited but nonetheless valuable legal services to low- or moderate-income persons who otherwise would be unable to afford an attorney.

Rule 1.2(c) of the Louisiana Rules of Professional Conduct requires that the limited scope representation be *reasonable* under the circumstances and that the client gives *informed consent*. Rule 1.0(h) defines *reasonable* as “the conduct of a reasonably prudent and competent lawyer.” Competent representation under Rule 1.1(a) requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

The second part of Rule 1.2(c) requires that the client give informed consent. Rule 1.0(e) defines *informed consent* as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.” The lawyer should take time to explain the material risks and reasonably available alternatives that exist when hiring the lawyer for limited services in the matter and not the entire scope of representation.

The client must fully understand and agree to this limited scope of services and generally, it is advisable to have such agreement in writing. Although Louisiana does not require that all lawyer-client agreements be reduced to writing if the lawyer is charging a fee, scope of representation is normally a necessary part of any written communication and it is highly recommended that the limited scope agreement be reduced to writing, explaining the specific terms, conditions, and limited services to be provided.

Louisiana Rule of Professional Conduct 1.2(c) reads as follows with the definitions in 1.0 (h) and 1.0 (e) included in place of “reasonable” and “informed consent,” respectively:

A lawyer may limit the scope of the representation if the limitation [would be the conduct of a reasonably prudent, competent lawyer] under the circumstances and the client [agrees to the proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct].

For more information about Louisiana Rule of Professional Conduct 1.2 (c), the Louisiana State Bar Association offers this [video](#) presented by the LSBA Ethics Counsel, Richard Lemmler.

Louisiana District Court Rule 9.12 - Enrollment as Counsel of Record

All licensed Louisiana attorneys in good standing may enroll as counsel of record: (1) by oral notice made in open court when all parties or their counsel are present; or (2) by filing a written Notice of Enrollment or a written Notice of Limited Appearance in accordance with [La. Code Civ. Proc. art. 853](#) with the clerk of court, with copies to all other enrolled counsel or self-represented parties and to the court.

A Notice of Limited Appearance shall specifically state the limitation of legal services by subject matter, proceeding, date, or time period in accordance with Rule 1.2(c) of the Rules of Professional Conduct. See forms in [Appendix 9.12A](#) (family law) and [Appendix 9.12B](#) (non-family law).

The applicable Appendix Form 9.12 form shall be filed if an attorney is making a limited appearance, with or prior to the initial pleading or prior to the initial hearing. The Notice shall bear the signatures of both the appearing attorney and the client, unless the client is unavailable to sign at filing. If the Notice does not bear the client's signature, a certificate attesting to the scope of limited enrollment, signed by the client, shall be filed into the record within ten (10) days of the filing of the initial Notice of Limited Appearance.

Any pleading filed by an attorney making a limited appearance shall state in bold type on the signature page of that pleading: "Attorney for limited purpose of [matter or proceeding]."

Comments

Attorneys enrolling pro hac vice shall comply with Rule XVII, Section 13 of the Rules of the Louisiana Supreme Court.

Filing the initial petition or first responsive pleading constitutes enrollment, and no further notice of enrollment is needed unless the attorney is making a limited appearance as authorized by Rule 1.2(c) of the Rules of Professional Conduct.

Rule 1.2(c) of the Rules of Professional Conduct allows an attorney to limit the scope of the representation if the limitation is reasonable and the client gives informed consent. See also Rule 1.0(e) of the Rules of Professional Conduct.

The use of standard forms for limited appearances makes the notices easily recognizable to judge, court staff, opposing parties and the client. The form notices require the attorney to identify the scope of a limited representation with specificity.

Louisiana District Court Rule 9.13 - Withdrawal as Counsel of Record

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record:

(a) The withdrawing attorney who does not have written consent from the client shall make a good faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney shall deliver or mail this notice to the client before filing any motion to withdraw.

(b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw shall be submitted to the judge presiding over that section or division.

(c) Any motion to withdraw shall include the following information:

(1) The motion shall state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney shall also furnish this information to the clerk of court.

(2) If a scheduling order is in effect, a copy of it shall be attached to the motion.

(3) The motion shall state whether any conference, hearing, or trial is scheduled and, if so, its date.

(4) The motion shall include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) shall be attached to the motion.

(5) If the motion is to withdraw upon completion of a limited appearance, the motion shall include a certification by the withdrawing attorney that the agreed upon limited services have been completed and that the withdrawing attorney has submitted all judgments or orders resulting from the limited appearance as ordered by the court. A copy of the relevant Notice of Limited Appearance shall be attached to the motion.*

*(d) The court may allow an attorney to withdraw by ex parte motion if:**

(1) The attorney has been terminated by the client; or

(2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or

(3) A limited appearance, as authorized by Rule 1.2(c) of the Rules of Professional Conduct and consented to by the client, has been completed;* or

(4) The case has been concluded.

(e) The court may also allow an attorney to withdraw by ex parte motion if no hearing or trial is scheduled.

(f) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client shall be served with a copy of the motion and rule to show cause why it should not be granted.

Louisiana District Court Rule 9.13 - Withdrawal as Counsel of Record (cont'd)

(g) If counsel's withdrawal would delay a scheduled hearing or trial, the court will not allow the withdrawal unless exceptional circumstances exist or limited representation was undertaken pursuant to a Notice of Limited Appearance and completed.

(h) Paragraphs (a) through (f) do not apply to an ex parte motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

(1) The court may grant the motion without a hearing. Movers shall furnish the court with a proposed order.

(2) Substitution of counsel will not, by itself, be good cause to alter or delay any scheduled matters or deadlines.

Comments

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

Rule 9.13(d)(3) provides for ex parte withdrawal by an attorney upon completion of a limited scope representation. It is intended to facilitate limited representation services as contemplated by Rule 1.2 (c) of the Rules of Professional Conduct.

* Indicates emphasis added.